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8 SAM RIVINIUS, and Petitioner,  
GRADETECH, INC.  
9

10 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
11 SAN JOSE DIVISION

12 GRADETECH, INC., a California corporation;  
13 SAM RIVINIUS, an individual,

14 Plaintiffs and Petitioner,

15 v.

16 CITY OF SAN JOSE, a public entity; JIM  
ORTBAL, in his official capacity as the City's  
17 Hearing Officer on Gradetech's protest of the  
City's 2019 Minor Street Projects  
18 disqualification decision, and in his individual  
capacity; DAVID FRENCH, in his individual  
19 capacity; CHRIS MASTRODICASA, in his  
individual capacity; MATTHEW CANO, in his  
20 individual capacity; and MATTHEW  
LOESCH, in his individual capacity, and  
21 DOES 1-50, inclusive,

22 Defendants and Respondents.  
23  
24  
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26  
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Case No. 19-cv-06157 NC

**STIPULATION AND ORDER SETTING  
FURTHER BRIEFING SCHEDULE FOR  
THE OPPOSITION AND REPLY AS TO  
DEFENDANTS' MOTION TO DISMISS  
FIRST AMENDED COMPLAINT AND  
TO CONTINUE HEARING DATE**

**[Civil L.R. 7-11 and 7-12]**

Courtroom: 5, 4th Floor  
Judge: Hon. Nathanael Cousins

1 Plaintiffs, GradeTech, Inc. and Sam Rivinius (“plaintiffs”), and defendants, the City of  
2 San Jose, Jim Ortbal, David French, Chris Mastrodicasa, Matthew Cano, and Matthew Loesch  
3 (collectively “defendants”), by and through their respective counsel of record, hereby stipulate as  
4 follows:

5 WHEREAS, on December 20, 2019, plaintiffs filed their First Amended Complaint for  
6 Damages and Petition for Writ of Mandamus, or in the Alternative, for Writ of Administrative  
7 Mandamus;

8 WHEREAS, on Tuesday, December 24, 2019, defendants filed a Motion to Dismiss First  
9 Amended Complaint (“the Motion”);

10 WHEREAS, on January 3, 2020, the Court granted a Stipulation between the parties  
11 continuing plaintiffs’ deadline to file their opposition to the Motion to January 21, 2020,  
12 defendants deadline to file a reply to February 4, 2020, and continuing the hearing date to  
13 February 26, 2020;

14 WHEREAS, counsel for plaintiffs is scheduled to begin a trial in Alameda County on  
15 January 27, 2020, and has various pretrial filings due and pretrial appearance scheduled before  
16 that date;

17 WHEREAS, counsel for the parties have met and conferred regarding the briefing  
18 schedule for the Motion, and defendants will not oppose a further extension in the briefing  
19 schedule;

20 WHEREAS, the proposed briefing schedule will require the hearing on the Motion –  
21 currently set for Wednesday, February 26, 2020 – to be continued to a later date;

22 WHEREAS, the parties agree that defendants need not provide initial disclosures, and  
23 that the parties will not engage in discovery, before the Court issues its Order on the Motion;

24 WHEREAS, the parties agree that once an Order on the Motion is issued, they will  
25 discuss discovery and the discovery schedule;

26 NOW THEREFORE, the parties hereby stipulate, and plaintiffs request that the Court  
27 order, as follows:

1 Plaintiffs shall have until **Tuesday, February 25, 2020**, to file their opposition to the  
2 Motion;

3 Defendants shall have until **Tuesday, March 17, 2020**, to file their reply in support of the  
4 Motion;

5 The opposition and reply shall comply with the page limits set forth in Northern District  
6 Local Rule 7-4(b); and

7 The parties are available for the hearing on the Motion to be continued to any Wednesday  
8 in the month of April 2020 at 1:00 p.m.

9 **IT IS SO STIPULATED.**

10 Dated: January 14, 2020

McMANIS FAULKNER

11  
12 /s/ Matthew Schechter

MATTHEW SCHECHTER

13 Attorneys for Plaintiffs, Gradetech, Inc., and  
14 Sam Rivinius, and Petitioner, Gradetech, Inc.

15  
16 Dated: January 14, 2020

RICHARD DOYLE, City Attorney

17 /s/ Matthew Pritchard

18 MATTHEW PRITCHARD

19 Attorneys for Defendants, City of San Jose, Jim  
20 Ortbal, David French, Chris Mastrodicasa,  
21 Matthew Cano, and Matthew Loesch

22 **ATTESTATION**

23 Pursuant to Civil Local Rule 5-1(i)(3), I hereby attest that all signatories listed, and on  
24 whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

25  
26 Dated: January 14, 2020

/s/ Matthew Schechter

MATTHEW SCHECHTER

**ORDER**

Pursuant to the parties' stipulation above, IT IS HEREBY ORDERED THAT:

1. Plaintiffs' Opposition to the Motion to Dismiss First Amended Complaint is now due by Tuesday, February 25, 2020.

2. Defendants' Reply in support of their Motion to Dismiss First Amended Complaint will be due by Tuesday, March 17, 2020.

3. The hearing on Defendants' Motion to Dismiss First Amended Complaint is hereby continued from Wednesday, February 26, 2020, to Wednesday, April 8, 2020, at 1:00 p.m.

4. Discovery is hereby stayed, and Defendants need not serve Plaintiffs with initial disclosures under Federal Rule of Civil Procedure 26(a), until the Court issues a ruling on Defendants' motion to dismiss the first amended complaint.

**IT IS SO ORDERED.**

Dated: January 15, 2020

